



November 21, 2005

Mr. Mike Bundek
Town of Little Creek
P.O. Box 298
Little Creek, DE 19961

RE: PLUS review – PLUS 2005-10-08; Town of Little Creek Comprehensive Plan

Dear Mr. Bundek:

Thank you for meeting with State agency planners on November 2, 2005 to discuss the proposed Town of Little Creek comprehensive plan.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: Herb Inden 739-3090

The OSPC compliments the town for preparing a well done plan that is realistic in its goals and objectives for a town this size. This office will recommend that the plan be certified. We do note, that the next steps that include the development of the implementing land use regulations and policies will be critical as well as determining how the town will administer such policies. In this regard we offer any assistance that we can provide.

Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685

The Comprehensive Plan for the Town of Little Creek thoughtfully mentions the historic character of the community throughout Section 2. When considering how to protect and maintain historic character, there are other methods than just implementing design review that are usually taken as preliminary steps to implementing historic zoning, which can be controversial when taken as a first step.

The Town of Little Creek has four properties individually listed in the National Register of Historic Places, and the historic core of the town has been determined eligible for listing by the Delaware Division of Historical and Cultural Affairs staff for compliance with federal environmental laws.

The Town of Little Creek could consider working with the Division of Historical and Cultural Affairs to list the eligible historic core in the National Register of Historic Places. This step will provide incentives for both homeowners and business owners for rehabilitating their historic properties to the Secretary of the Interior's Standards for Rehabilitation. These standards offer a conservative approach to maintaining the historic character while allowing for change to accommodate new uses or modern conveniences. Income tax reduction incentives are available from the Federal government for income-producing properties and the State for residential and income-producing properties. These programs allow dollar-for-dollar deductions off of income tax liability of a percentage of the rehabilitation cost. For more information, contact Joan Larrivee, Deputy State Historic Preservation Officer at 302-736-7400.

Additionally, small grants are available on a competitive basis from the Delaware Preservation Fund to assist with rehabilitation of properties listed in the National Register of Historic Places. For more information, contact the Director of the Fund, Vincent Murphy at (302) 832-0300; grant applications and guidance are available on their web site at http://www.preservationde.org/programs/grantfund_guidelines.htm.

If the town is looking to establish a designated historic zone with authority to protect the historic resources within, the town may want to look into designation as a Certified Local Government. This program is administered by the Division of Historical and Cultural Affairs and offers a closer link to the services of the Division, including the availability of grant funds to undertake planning activities and training to keep commissioners abreast of the latest thinking about implementing historic zoning ordinances and best management practices. For more information about the Certified Local Government and the National Register of Historic Places programs, contact Robin Bodo at 302-736-7411.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The Town of Little Creek is preparing to adopt its first comprehensive plan. DelDOT's review of the draft plan found no serious concerns. They have offered the following comments, in the order that they identified them, as to how the plan might be improved:

- 1) On page 8, Section 1-3c refers to the "Air Insulation Compatible Use Zone". The correct term is "Air Installation Compatible Use Zone". This error also occurs on page 41. In addition, in that section, a sentence reads, "Homes built in the northern half of the town need to be constructed in compliance with the code requirements in order to minimize the noise effect felt by the residents." To what requirements of what code does this sentence refer? Presumably all new homes in the town must be built in compliance with the general requirements of the local building code simply to be legal.
- 2) How was the community planning questionnaire distributed? The plan should say that. Also, while it is mentioned that 46 responses were received, that number should be placed in context. In a town of about 200 people, 46 responses to a questionnaire is a very good response rate.
- 3) The public participation meeting is described as "well attended". Approximately how many people were there?
- 4) In Section 1-5a, the first and fourth Planning Goals, appear to be worded in terms of process and DelDOT suggests that they be rewritten. For example, they believe the first goal might be stated as "To maintain Little Creek's small-town atmosphere and rural setting through the adoption of appropriate zoning and land use ordinances."
- 5) Section 2-4d, Institutional Land Uses, mentions the Old Stone Tavern but does not explain that it is a historic building, now used for government offices. Because its use is not obvious from its name, unlike the church, the fire hall and the post office, some explanation should be provided in this regard.
- 6) Map 7 shows the Area of Concern to be a one-mile radius circle centered in the existing town. Because the town boundaries form a long, thin rectangle along Delaware Route 9, we suggest that a more elongated Area of Concern might be appropriate.
- 7) In Section 2-8e, Recommendations, Transportation, the recommendation concerning Port Mahon Road mentions the "dredging project described in Section

2-3d". As there are two dredging projects mentioned in the section, we recommend that the project be referred to as a beach replenishment project.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Division of Water Resources Comments

1. There are federal and State wetlands in and adjacent to the Town so any development should have an approved field wetlands delineation before it can be permitted.
2. Page 24, Section 2-3f. Add "Protection of ground water resources" because most of the town is an excellent recharge area and the town uses a surficial unconfined aquifer. This can be done through land use controls on existing and future Residential, Commercial, Institutional, Cottage Industries, etc. by adopting well head protection regulations, controlling the use and storage of hazardous materials, requiring riparian and wetlands buffers, and limiting the percentage of impervious areas.
3. Develop an agreement with the County to reallocate any excess waste water capacity consistent with the intentions and purposes of the town's growth policies.

Watershed Assessment Section Comments

Section 2-3, Environmental Features

For the sake of clarity and concision, the soils information in the second paragraph should be eliminated or incorporated within section 2-3b.

Section 2-3a

The Watershed Assessment Section recommends that the Town of Little Creek adopt language that differentiates the regulatory/jurisdictional authority between nontidal and tidal wetlands. Consider the following:

“Wetlands are protected by Federal 404 provisions of the Clean Water Act. In Delaware, nontidal and tidal wetlands are regulated under this act; however, tidal wetlands are accorded additional and stringent regulatory protection under Title 7 Chapter 66 provisions of the Delaware State Code.”

Section 2-3b

Since this comprehensive plan is focused on future development within the Town, we suggest that your soils narrative contain language that explains the relative suitability/unsuitability of the soil types with respect to commercial/residential development rather than just agriculture.

Section 2-3e, Total Maximum Daily Loads (TMDLs)

The Town of Little Creek is located within the Little Creek watershed, not the Nanticoke. It should also be noted that TMDLs address both nonpoint and point sources of pollution. A Total Maximum Daily Load (TMDL) is the maximum level of pollution for which a water quality limited water body can assimilate without compromising use and recreational goals such as swimming, fishing, drinking water, and shell fish harvesting. TMDLs are currently undergoing development for the Little Creek watershed and should be completed by December 2006.

Section 2-3f, Recommendations, Environmental Features

Since buffers are an essential Best Management Practice (BMP) for mitigating impacts to water/ habitat quality and crucially important for achieving TMDL nutrient reductions, the Watershed Assessment Section strongly recommends that 100-foot minimum buffer width (between wetlands/water bodies and parcel lot lines) be adopted as a recommendation. It is hoped that this recommended buffer width ultimately be adopted in the Town's code as an ordinance.

Delaware Coastal Programs Comments

Page 9, Section 1-4b., 3rd paragraph: Little Creek is mentioned as being on the "explosive route" to DAFB. What does this mean? Some additional explanation may be necessary. This paragraph also mentions the "code enforcement situation." What does this mean? Are residents concerned that building codes are not being enforced in older structures? Are they concerned that they are being unfairly targeted by code enforcement actions? Additional explanation would be helpful.

Page 11, Section 2-1., 3rd paragraph: Under what set of building codes and ordinances are plans approved by Kent County? Is it Kent County's code, or Little Creek's?

Page 20, Section 2-3.: Please mention what watershed and subwatershed the Town lies within.

Page 21, Section 2-3a., Floodplains and wetlands: This section provides good information about floodplains and wetlands, but says nothing of actual flooding issues in the town, which are referenced later on page 30. Are there areas that routinely flood in Town? If so, where are they? What causes the flooding? Rainwater or storms? It is important to link this section with your recommendations for stormwater on page 30. You are encouraged to check a bit more into this issue so that your recommendations on page 30 are valid.

Page 22, Section 2-3d., 1st paragraph: Please revise Susan Love and Dave Carter's program to "DNREC Delaware Coastal Programs Section" and Laura Herr's program to "DNREC Wetlands and Subaqueous Lands Section".

Page 23, Dredging the Little River: Suggest revising the name of this section to "Improving Navigability in the Little River" and potentially including removing the pilings as part of this section.

Page 23, Wetland permits: While this section does provide valuable information about the types of projects that could be eligible for a wetland permit, it does not provide any context for this action. Would people want to fill wetlands for development? E.g. – to develop the Laughing Gull site would most likely require fill and wetland permits (which wouldn't likely be granted!). Is this what you are referring to in this section?

Page 23, River Access: Suggest moving this entire paragraph to the introductory section of 2-3d so that the reader understands why all the additional information is being provided.

Page 23, Section 2-3e., TMDLs: This section references the Nanticoke River. Is this a cut and paste error? What is the watershed for TMDLs in Little Creek? If Little Creek is within a TMDL watershed, please provide accurate information about the watershed and nutrient loads and reductions and additional details that explain that this is a federally-mandated program.

Page 24, Section 2-3f., Item 3: Recommend that this recommendation be revised to state: **"Develop a plan to provide residents and visitors access to the Little River.**

Recreational access to the Little River is important to the residents of Little Creek. Public input should be gathered and conceptual plans should be developed based upon residents' priorities and resource and permitting limitations. Based upon information gathered so far, plans could include a walkway, fishing area or small launching area for non-motorized boats. "

Page 24, Section 2-3f., Item 4: This recommendation is too general. Suggest something like the following: **“Conduct a feasibility study for improving navigation in the Little River.** Residents have expressed interest in restoring navigation access to the Little River. A feasibility study should be conducted that includes: navigation and use needs of residents and visitors; background data and information about current use and water depths, fish and wildlife and water quality concerns; alternatives and cost estimates for improving navigability, and a cost-benefit analysis. Decisions as to whether the Town wishes to pursue navigation projects should be based upon the outcome of the feasibility study.”

Page 27, Annexation areas: Riverfront parcels are being proposed for annexation into the Town. Given the small amount of riverfront area available for public access and the Town’s desire to improve access to Little River, strong consideration should be given to annexing these parcels under either a special waterfront zoning designation or with agreements for public access. These parcels represent the Town’s best opportunity to provide for real public access to the waterfront.

Page 28, Annexation Policies: Parcels to be annexed should also be considered based upon their ability to provide public access to waterfront areas for town residents.

Page 28, Section 2-5e., Item 1: Please make the list of actions more easily and immediately readable. For example, each bullet should contain a specific action, followed by the explanatory text. 1. Delineate Town Boundary (and have it approved by the State?). 2. Update Town Charter. 3. Develop ordinances and regulations.

Page 29, Item 4: Be sure to define PDR and TDR in this section too.

Page 30, Section 2-6e.: The statement “Stormwater problems in Little Creek are generally the result of the Town’s location near a wetland.” is questionable. Are you confusing flooding issues with stormwater management issues? During major storms, tidal flooding is certainly an issue, and rain water can’t drain off when the flood water meets “dry” land. See comments above for page 21. Please link this section with the section on floodplains and wetlands and ensure that the text is clear as to what causes flooding in Little Creek.

Page 31, Section 2-7h.: You may wish to add that the town could seek additional waterfront park areas through annexation.

Page 33, Section 2-8e.3.: Replace “dredging project” with “beach replenishment project.”

Drainage

Section 2-6e. Plan Recommendations, Public Utilities, and Services.

There have been several drainage issues within the Town of Little Creek over the last 15 years. The Town of Little Creek conveys stormwater to the marsh through a series of stormwater pipes, ditches, and swales. While some of the drainage conveyances are along street many are on private property. Obtaining access for maintenance of drainage conveyances can be time consuming and relies on the cooperation of multiple landowners.

Recommendation

The Drainage Program understands the town is cautious of not assuming the burden of maintenance of the drainage conveyances within the town. However, using the City of Dover's Surface Water Drainage Ordinance, (Sec. 19.3-1 Drainage courses on private property) as a guide, a drainage ordinance written to allow the town, or its agent, access to the conveyances could expedite maintenance when funding is available. A drainage ordinance similar to the City of Dover's would allow the town to remove blockages and impediments to the drainage conveyances if after due notice to the property owner the blockages were not removed, thus giving drainage for the residents of the town.

Rare Species

We have records of the following rare species within or adjacent to the 1-mile radius depicted on 'Map 7: Growth and Annexation':

Circus cyaneus (Northern Harrier) - S1B/S4N, State E, G5

Fulica Americana (American Coot) – S1B/SZN, G5

Haliaeetus leucocephalus (Bald Eagle) – S2B/S3N, G4, PS:LT

State Rank: S1- extremely rare within the state (typically 5 or fewer occurrences); S2- very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

State Status: E – endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state;

Global Rank: G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally

but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T_ - variety or subspecies rank; Q - questionable taxonomy;

Federal Status: LE – endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT – threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; Candidate – Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

Northern Harrier nest in trees and forage in the field and marshes within the area of interest. Records of American Coot are from the Little Creek Wildlife Area but this species likely occurs upstream of the wildlife area as well. An active Bald Eagle nest is just west of the 1-mile radius, but they likely forage and roost within the riparian buffer along the Little River. Efforts to minimize impacts to rare species should be considered when making decisions regarding land use changes. The Delaware Natural Heritage and Endangered Species Program should be contacted for updated information prior to any land use changes.

Little Creek Wildlife Area

In addition, the area of interest includes portions of the Little Creek Wildlife Area. The State is concerned that the quantity and quality of wildlife habitat in the State Wildlife Area, particularly near the border, might be negatively affected by development activities, or by permanent land use changes on adjacent lands. The Regional Wildlife Biologist (Wayne Lehman, 302-653-2079) should be contacted *prior* to any land use changes to minimize potential negative impacts of the proposed project on these public lands. Additionally, developers or future landowners using adjacent properties, should be aware that legal hunting activities, such as firearm noise or dogs barking when pursuing game, takes place in the Wildlife Area.

Mosquito Control

Development projects that result in increased housing densities, along with concomitant residents or visitors, within 2 miles of large expanses of salt marshes or brackish wetlands, can often lead to increased demands by the public (and their elected officials) for mosquito control services, going beyond what DNREC's Mosquito Control Section currently has the budget or resources to provide. Adverse impacts upon the State's allocation of public funds for mosquito control services must be realistically recognized as the frequent consequence of approving these types of development projects; and State and local governments should then be prepared to deal with the increased budget demands for mosquito control services. Additionally, even though the EPA has

scientifically determined that EPA-registered mosquito control insecticides can be applied “without posing any unreasonable risks to human health, wildlife or the environment” (when used in accordance with all product label instructions), avoiding or reducing the use of such pesticides should be employed whenever possible. Limiting development that is too close to wetlands will aide in achieving a reduction in pesticide use.

State Fire Marshal’s Office – Contact: John Rossiter 739-4394

The DE State Fire Marshal’s Office has the responsibility to review all commercial and residential subdivisions for compliance with the DE State Fire Prevention Regulations. This Agency asks that a MOU be established between the DE State Fire Marshal’s Office and the Town of Little Creek Planning Commission. The Commission will be issuing final approvals on commercial and residential subdivisions. The State Fire Marshal’s Office would be issuing approvals much like DelDOT, Kent Conservation, and DNREC. This Agency’s approvals are based on the DE State Fire Prevention Regulations only.

Section 3-2 might be the place to mention the projects getting reviewed by the DE State Fire Marshal’s Office and complying with the DE State Fire Prevention Regulations. There is no current public water system within the town’s limits, however, if at anytime a system is introduced it shall comply with the DE State Fire Prevention Regulations.

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Milton Melendez 698-4500

The Delaware Department of Agriculture does not have any objections to the Town of Little Creek Comprehensive Plan. The Department of Agriculture does encourage local government authorities to acknowledge Agricultural Districts and Easements town/city’s area of concern. By making this acknowledgement, the Little Creek Comprehensive Plan supports environmental and scenic benefits maintained through preservation.

Neither the Delaware Department of Agriculture nor the Delaware Forest Service opposes the Town of Little Creek Comprehensive Plan. Both the Department and the Forest Service encourages environmentally sensitive design in areas where development is supported by the *Strategies for State Policies and Spending*. In addition, the goals on the Town of Little Creek as related to farmland and forest preservation are consistent with those encouraged by the Department of Agriculture and the Delaware Forest Service.

Finally, the Delaware Forest Service encourages the community to develop and promote trees within the community when possible. Such activities that would expand this resource include expanding existing tree ordinance, developing and promoting such community outreach programs as the Tree City USA Program, and expanding upon landscape ordinance which promote proper use and selection of plants, trees and shrubs. To learn more about these opportunities, please contact our office at (302) 349-5754.

Public Service Commission - Contact: Andrea Maucher 739-4247

No comments

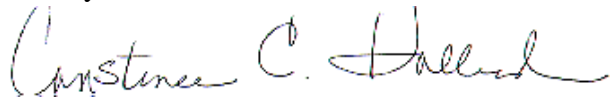
Delaware State Housing Authority – Contact Jimmy Atkins 739-4263

The Town of Little Creek's Draft Comprehensive Plan complies with the requirements of a municipal development strategy for communities with fewer than 2,000 people. For Towns with fewer than 2,000 people, the plan should set forth goals and policies on housing and land use within the Town's boundaries. The Plan identifies existing land uses, population and housing characteristics, and future growth and development opportunities. The Plan states as a general policy that it will encourage homeownership, and preserve and rehabilitate existing homes through increased code enforcement. DSHA supports this policy and looks forward to working with the Town or County to accomplish this.

Following receipt of this letter, the Town should make any certification changes noted in this letter and review all other comments for consideration. The plan should then be resubmitted to this office for review before final adoption by the Town. A written response regarding the changes made to the plan should accompany the resubmitted plan.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in dark ink, appearing to read "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being more prominent.

Constance C. Holland, AICP
Director

CC: David Edgell